

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE D. STATE PURCHASING AND GENERAL SERVICES

CHAPTER 2155. PURCHASING: GENERAL RULES AND PROCEDURES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2155.001. DEFINITIONS. Except as otherwise provided by this chapter and Chapters [2156](#), [2157](#), and [2158](#):

(1) "Goods" means supplies, materials, or equipment.

(2) "Service" means the furnishing of skilled or unskilled labor or professional work, but does not include a:

(A) professional service subject to Subchapter [A](#), Chapter [2254](#);

(B) service of a state agency employee;

(C) consulting service or service of a consultant as defined by Subchapter [B](#), Chapter [2254](#); or

(D) service of a public utility.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 61, eff. June 19, 1997.

Sec. 2155.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section [2151.004](#)(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.06, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 7, eff. September 1, 2019.

Sec. 2155.0012. AUTHORITY TO ADOPT RULES. The comptroller may adopt rules to efficiently and effectively administer this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section [2001.029](#)(b) are met.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.06, eff. September 1, 2007.

Sec. 2155.002. FOCUS ON LARGE EXPENDITURES. To the extent possible, the comptroller shall focus its efforts under this chapter and Chapters [2156](#), [2157](#), and [2158](#) on purchases and contracts that involve relatively large amounts of money.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 7, eff. September 1, 2019.

Sec. 2155.003. CONFLICT OF INTEREST. (a) The chief clerk or any other employee of the comptroller may not:

(1) have an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services by an agency of the state; or

(2) in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation.

(b) The chief clerk or any other employee of the comptroller who violates Subsection (a)(2) is subject to dismissal.

(c) In consultation with the comptroller, the Texas Ethics Commission shall adopt rules to implement this section.

(d) The Texas Ethics Commission shall administer and enforce this section and may prepare written opinions regarding this section in accordance with Subchapter [D](#), Chapter [571](#).

(e) The comptroller must report to the Texas Ethics Commission a campaign contribution from a vendor that bids on or receives a contract under the comptroller's purchasing authority.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.07, eff. September 1, 2007.

Sec. 2155.004. CERTAIN BIDS AND CONTRACTS PROHIBITED. (a)

A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based.

(b) A bid or award subject to the requirements of this section must include the following statement:

"Under Section [2155.004](#), Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

(c) If a state agency determines that an individual or business entity holding a state contract was ineligible to have the contract accepted or awarded under Subsection (a), the state agency may immediately terminate the contract without further obligation to the vendor.

(d) This section does not create a cause of action to contest a bid or award of a state contract.

(e) This section does not prohibit a bidder or contract participant from providing free technical assistance to a state agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 62, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 56, eff. June 15, 2001.

Sec. 2155.005. COMPLIANCE WITH ANTITRUST LAWS. (a) A bidder offering to sell goods or services to the state shall certify on each bid submitted that neither the bidder, nor the person represented by the bidder, nor any person acting for the represented person has:

(1) violated the antitrust laws codified by Chapter [15](#), Business & Commerce Code, or the federal antitrust laws; or

(2) directly or indirectly communicated the bid to a competitor or other person engaged in the same line of business.

(b) The attorney general shall prepare the certification statement. The statement shall be made a part of the bid form.

Sec. 2155.006. PROHIBITION ON CERTAIN BIDS AND CONTRACTS.

(a) In this section:

(1) "Disaster" has the meaning assigned by Section [418.004](#).

(2) "Hurricane Katrina" means the hurricane of that name that struck the gulf coast region of the United States in August 2005.

(b) A state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been:

(1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section [39.459](#), Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or

(2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section [39.459](#), Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

(c) A bid or award subject to the requirements of this section must include the following statement:

"Under Section [2155.006](#), Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

(d) If a state agency determines that an individual or business entity holding a state contract was ineligible to have the bid accepted or contract awarded under Subsection (b), the state agency may immediately terminate the contract without further obligation to the vendor.

(e) This section does not create a cause of action to contest a bid or award of a state contract.

Added by Acts 2007, 80th Leg., R.S., Ch. 1302 (S.B. 608), Sec. 1, eff. September 1, 2007.

Sec. 2155.0061. PROHIBITION ON CERTAIN BIDS AND CONTRACTS RELATED TO PERSONS INVOLVED IN HUMAN TRAFFICKING. (a) A state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been convicted of any offense related to the direct support or promotion of human trafficking.

(b) A bid or award subject to the requirements of this section must include the following statement:

"Under Section 2155.0061, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

(c) If a state agency determines that an individual or business entity holding a state contract was ineligible to have the bid accepted or contract awarded under this section, the state agency may immediately terminate the contract without further obligation to the vendor.

(d) This section does not create a cause of action to contest a bid or award of a state contract.

Added by Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 6.01, eff. September 1, 2019.

Sec. 2155.007. PROCUREMENT COORDINATION COMMITTEE. (a) In this section, "department" means the Department of Information Resources.

(b) The department and the comptroller shall establish a committee composed of essential personnel of the department and the comptroller to:

(1) identify:

(A) areas of overlap in the procurement functions of the department and the comptroller and methods to avoid duplication of services;

(B) mutually beneficial contracting and procurement methodologies, data collection and management techniques, and customer relations management;

(C) opportunities for collaboration on procurement functions that would benefit the state or other customers; and

(D) opportunities for consolidation of administrative or other functions to improve customer service and reduce operating costs; and

(2) develop:

(A) a standardized method for the department and the comptroller to:

(i) collect and analyze spending data relating to procurement contracts; and

(ii) benchmark and quantitatively measure cost savings and increased administrative efficiency resulting from collaboration and cooperative purchasing; and

(B) strategies that encourage coordination between the department and the comptroller relating to procurement functions.

(c) The committee may appoint advisory members as appropriate to assist the committee.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. [2472](#)), Sec. 16, eff. September 1, 2013.

SUBCHAPTER B. GENERAL PURCHASING REQUIREMENTS, PROCEDURES, AND PROGRAMS

Sec. 2155.061. COMPTROLLER PURCHASING SYSTEM. (a) The comptroller shall acquire by purchase, lease, rental, or another manner all goods and services for a state agency, including a purchase that does not require a competitive bid or a spot purchase.

(b) The comptroller shall operate an effective and economical system for purchasing goods and services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 8, eff. September 1, 2019.

Sec. 2155.062. PURCHASE METHODS. (a) In purchasing goods and services the comptroller may use, but is not limited to, the:

- (1) contract purchase procedure;
- (2) multiple award contract procedure, including under any schedules developed under Subchapter I;
- (3) open market purchase procedure; or
- (4) reverse auction procedure.

(b) Chapter [2156](#) provides additional information on purchase methods.

(c) Chapter [2157](#) provides additional information on purchase of automated information systems.

(d) In this subchapter, "reverse auction procedure" means:

- (1) a real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
- (2) a bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 436, Sec. 1, eff. May 28, 2001;

Acts 2001, 77th Leg., ch. 1422, Sec. 7.01, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1013 (H.B. [908](#)), Sec. 1, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 9, eff. September 1, 2019.

Sec. 2155.063. COMPETITIVE BIDDING REQUIREMENT. Except as otherwise provided by this subtitle, a purchase of or contract for

goods or services shall, whenever possible, be accomplished through competitive bidding.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2155.064. SCHEDULE AND BULK PURCHASING. The comptroller may combine orders in a system of schedule purchasing and shall attempt to benefit from bulk purchasing.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 10, eff. September 1, 2019.

Sec. 2155.065. CONTRACTS WITH DEPARTMENT OF CRIMINAL JUSTICE. (a) The comptroller is authorized to make contracts with the Texas Department of Criminal Justice for the purchase of goods and services for use by another state agency.

(b) The Texas Department of Criminal Justice shall test goods and services it sells under this section before delivery to the extent necessary to ensure quality. The department may enter into a contract with a private or public entity to assist with testing.

(c) The comptroller shall make awards under this section based on proposed goods and services meeting formal state specifications developed by the comptroller or meeting commercial specifications approved by the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 11, eff. September 1, 2019.

Sec. 2155.066. REVIEW OF SPECIFICATIONS. The comptroller shall review the specifications and purchase conditions of goods or services considered for purchase.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 12, eff. September 1, 2019.

Sec. 2155.067. PROPRIETARY PURCHASES. (a) If, after review under Section 2155.066, the comptroller finds that specifications and conditions of a purchase request describe a product that is proprietary to one vendor and do not permit an equivalent product to be supplied, the comptroller shall require the requesting state agency to justify in writing the specifications or conditions.

(b) The agency head or the presiding officer of the agency's governing body must sign the written justification.

(c) The written justification must:

(1) explain the need for the specifications;

(2) state the reason competing products are not satisfactory; and

(3) provide other information requested by the comptroller.

(d) If the comptroller requires a resubmission with written justification, the comptroller shall notify the requesting state agency of the requirement not later than the 10th day after the date of receiving the purchase request.

(e) Repealed by Acts 1997, 75th Leg., ch. 1206, Sec. 29, eff. Sept. 1, 1997.

(f) The comptroller shall issue an invitation to bid to vendors not later than the 20th day after the date of receiving the required written justification.

(g) Repealed by Acts 2003, 78th Leg., ch. 785, Sec. 75(2).
Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 29, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 118, Sec. 1.04, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 785, Sec. 75(2), eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 13, eff. September 1, 2019.

Sec. 2155.068. UNIFORM STANDARDS AND SPECIFICATIONS.

(a) The comptroller may coordinate uniform standards and specifications for goods purchased by the comptroller. The comptroller by rule may adopt appropriate standards developed by a nationally recognized standards-making association as part of its specifications and standards program.

(b) The comptroller shall enlist the cooperation of other state agencies in the establishment, maintenance, and revision of uniform standards and specifications.

(c) The comptroller shall review contracts administered by the comptroller to ensure that all goods and services meet contract specifications.

(d) As part of the standards and specifications program, the comptroller shall:

(1) review contracts for opportunities to recycle waste produced at state buildings;

(2) develop and update a list of equipment and appliances that meet the energy efficiency standards provided by Section [2158.301](#); and

(3) assist state agencies in selecting products under Section [2158.301](#), as appropriate.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. [12](#)), Sec. 3.04, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. [3693](#)), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 11.022, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 14, eff. September 1, 2019.

Sec. 2155.069. TESTING AND INSPECTION. (a) The comptroller may test and inspect goods and services purchased under a contract administered by the comptroller to ensure compliance with specifications.

(b) The comptroller may contract for testing under this section.

(c) The comptroller may, on request, test and inspect goods and services purchased by other state governmental entities on a cost recovery basis.

(d) The comptroller may also test and inspect goods and services before they are purchased. Other state agencies may test and inspect goods and services before purchase under standard industry testing methods, or they may contract for testing. The comptroller may inform agencies about available private testing facilities.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 14, eff. September 1, 2019.

Sec. 2155.070. FAILURE TO MEET SPECIFICATIONS. (a) A state agency that determines that goods or services received under a contract administered by the comptroller do not meet specifications shall promptly notify the comptroller in writing of the reasons for the determination. The comptroller shall immediately make its own determination of whether the goods and services meet specifications.

(b) The comptroller or a state agency, including an institution of higher education, has the authority to determine that goods and services exempted from the comptroller's purchasing authority meet or fail to meet specifications.

(c) On determining that contract specifications or conditions have not been met, the comptroller shall act against the defaulting contractor, with the assistance of the attorney general as necessary.

(d) If the comptroller receives repeated complaints against a vendor, the comptroller shall remove the vendor's name and the vendor's goods and services from the comptroller's bidders list for not longer than one year. If complaints resume after the vendor is

reinstated on the bidders list, the comptroller may bar the vendor from participating in state contracts for a period under Section [2155.077](#).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 14, eff. September 1, 2019.

Sec. 2155.072. STATEWIDE OR REGIONAL SERVICES CONTRACTS; STUDIES. (a) The comptroller annually shall select for study at least one service that is purchased by one or more state agencies. The comptroller shall study a selected service to determine whether the state would benefit if the service were provided to appropriate state agencies under a regional or statewide contract. The comptroller shall give priority to studying services for which the comptroller has delegated the purchasing function to many state agencies.

(b) The comptroller is not required to enter into a statewide or regional contract for the provision of a service to state agencies if more than five bidders are willing to provide the service to the state under a statewide or regional contract.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 14, eff. September 1, 2019.

Sec. 2155.073. PARTICIPATION BY SMALL BUSINESSES IN STATE PURCHASING. The comptroller shall foster participation of small businesses in the purchasing activities of the state by:

(1) assisting state agencies in developing procedures to ensure the inclusion of small businesses on state agency master bid lists;

(2) informing small businesses of state purchasing opportunities;

(3) assisting small businesses in complying with the

procedures for bidding on state contracts;

(4) working with state and federal agencies and with private organizations in disseminating information on state purchasing procedures and the opportunities for small businesses to participate in state contracts;

(5) assisting state agencies with the development of a comprehensive list of small businesses capable of providing goods or services to the state;

(6) making recommendations to state agencies to simplify contract specifications and terms to increase the opportunities for small business participation;

(7) working with state agencies to establish a statewide policy for increasing the use of small businesses;

(8) assisting state agencies in seeking small businesses capable of supplying goods and services that the agencies require;

(9) assisting state agencies in identifying and advising small businesses on the types of goods and services needed by the agencies; and

(10) assisting state agencies in increasing the volume of business placed with small businesses.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 14, eff. September 1, 2019.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [799](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2155.074. BEST VALUE STANDARD FOR PURCHASE OF GOODS OR SERVICES. (a) For a purchase of goods and services under this chapter, each state agency, including the comptroller, shall purchase goods and services that provide the best value for the state.

(b) In determining the best value for the state, the purchase price and whether the goods or services meet

specifications are the most important considerations. However, the comptroller or other state agency may, subject to Subsection (c) and Section [2155.075](#), consider other relevant factors, including:

- (1) installation costs;
- (2) life cycle costs;
- (3) the quality and reliability of the goods and services;
- (4) the delivery terms;
- (5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;
- (6) the cost of any employee training associated with a purchase;
- (7) the effect of a purchase on agency productivity;
- (8) the vendor's anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment; and
- (9) other factors relevant to determining the best value for the state in the context of a particular purchase.

(c) A state agency shall consult with and receive approval from the comptroller before considering factors other than price and meeting specifications when the agency procures through competitive bidding goods or services with a value that exceeds \$100,000.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 14.16, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 14, eff. September 1, 2019.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [799](#), 87th Legislature, Regular Session, for amendments affecting the

following section.

Sec. 2155.075. REQUIREMENT TO SPECIFY VALUE FACTORS IN REQUEST FOR BIDS OR PROPOSALS. (a) For a purchase made through competitive bidding, the comptroller or other state agency making the purchase must specify in the request for bids the factors other than price that the comptroller or agency will consider in determining which bid offers the best value for the state.

(b) For a purchase made through competitive sealed proposals, the comptroller or other state agency making the purchase:

(1) must specify in the request for proposals the known factors other than price that the comptroller or agency will consider in determining which proposal offers the best value for the state; and

(2) may concurrently inform each vendor that made a proposal on the contract of any additional factors the comptroller or agency will consider in determining which proposal offers the best value for the state if the comptroller or other agency determines after opening the proposals that additional factors not covered under Subdivision (1) are relevant in determining which proposal offers the best value for the state.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 14, eff. September 1, 2019.

Sec. 2155.0755. VERIFICATION OF USE OF BEST VALUE STANDARD.

(a) The contract manager or procurement director of each state agency shall:

(1) approve each state agency contract for which the agency is required to purchase goods or services using the best value standard;

(2) ensure that, for each contract, the agency documents the best value standard used for the contract; and

(3) acknowledge in writing that the agency complied with the agency's and comptroller's contract management guide in the purchase.

(b) For each purchase of goods or services for which a state agency is required to use the best value standard, the comptroller shall ensure that the agency includes in the vendor performance tracking system established under Section 2262.055 information on whether the vendor satisfied that standard.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 10, eff. September 1, 2015.

Sec. 2155.076. PROTEST PROCEDURES. (a) The comptroller and each state agency by rule shall develop and adopt protest procedures for resolving vendor protests relating to purchasing issues. An agency's rules must be consistent with the comptroller's rules. The rules must include standards for maintaining documentation about the purchasing process to be used in the event of a protest.

(b) A state agency that is not subject to Chapter 2001 shall provide public notice of its proposed and adopted protest rules and provide a procedure for public comment on the proposed rules.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 15, eff. September 1, 2019.

Sec. 2155.077. BARRING VENDOR FROM PARTICIPATION IN STATE CONTRACTS. (a) The comptroller may bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, for:

(1) substandard performance under a contract with the state or a state agency;

(2) material misrepresentations in a bid or proposal to the state or a state agency or during the course of performing a contract with the state or a state agency;

(3) fraud;

(4) breaching a contract with the state or a state agency; or

(5) repeated unfavorable performance reviews under

Section 2155.089 or repeated unfavorable classifications received by the vendor under Section 2262.055 after considering the following factors:

(A) the severity of the substandard performance by the vendor;

(B) the impact to the state of the substandard performance;

(C) any recommendations by a contracting state agency that provides an unfavorable performance review;

(D) whether debarment of the vendor is in the best interest of the state; and

(E) any other factor that the comptroller considers relevant, as specified by comptroller rule.

(a-1) The comptroller shall bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, if the vendor has been:

(1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005;

(2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or

(3) convicted of any offense related to the direct support or promotion of human trafficking.

(a-2) The comptroller may bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, if more than two contracts between the vendor and the state have been terminated by the state for unsatisfactory vendor performance during the preceding three years.

(b) Except as provided by Subsection (d), the comptroller

shall bar a vendor from participating in state contracts under Subsection (a) or (a-2) for a period that is commensurate with the seriousness of the vendor's action and the damage to the state's interests.

(c) The comptroller by rule shall:

(1) state generally the reasons for which a vendor may be barred from participating in state contracts and the periods for which the vendor may be barred; and

(2) prescribe the procedures under which the comptroller will determine whether and for how long a vendor will be barred.

(d) The comptroller shall bar a vendor from participating in state contracts under Subsection (a-1) for a period of five years from the date the vendor was convicted or the penalty was assessed.

(e) In this section:

(1) "Disaster" has the meaning assigned by Section [418.004](#).

(2) "Hurricane Katrina" means the hurricane of that name that struck the gulf coast region of the United States in August 2005.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1302 (S.B. [608](#)), Sec. 2, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. [20](#)), Sec. 11, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. [20](#)), Sec. 6.02, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 16, eff. September 1, 2019.

Sec. 2155.079. BUYING UNDER CONTRACT ESTABLISHED BY AGENCY OTHER THAN COMPTROLLER. (a) The comptroller shall adopt rules specifying the circumstances under which it is advantageous for the state to allow a state agency to purchase goods or services under a contract made by another state agency other than the comptroller, including as provided under Subchapter I.

(b) If comptroller rules allow other agencies to make purchases under a contract entered into by an agency using delegated purchasing authority, the agency purchasing under delegated authority may offer the goods or services available under the contract to other agencies only if the agency first:

(1) establishes that the goods or services being offered under its contract are not available under a contract administered by the comptroller; and

(2) informs the comptroller of the terms of the contract and the capabilities of the vendor.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 2.02, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 17, eff. September 1, 2019.

Sec. 2155.080. ADVISORY COMMITTEE ON PROCUREMENT. (a) The comptroller may establish an advisory committee on procurement. The purpose of the committee is to represent before the comptroller the state agency purchasing community and the political subdivisions that use the comptroller's purchasing services.

(b) The committee is composed of officers or employees from the comptroller, from state agencies, including institutions of higher education, and from political subdivisions who are invited by the comptroller to serve on the committee. The comptroller shall invite officers and employees who are experienced in public purchasing, in public finance, or who possess other appropriate expertise to serve on the committee. Service on the committee is an additional duty of the member's public office or employment. Chapter [2110](#) does not apply to the size or composition of the committee. The comptroller shall set staggered terms for the members of the committee.

(c) The committee may establish its own rules of operation.

(d) The committee shall recommend improvements in comptroller or state agency purchasing practices to the

comptroller. The committee shall review and comment on findings and recommendations related to purchasing that are made by state agency internal auditors or by the state auditor.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept.1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 18, eff. September 1, 2019.

Sec. 2155.081. VENDOR ADVISORY COMMITTEE. (a) The comptroller may establish a vendor advisory committee. The purpose of the committee is to represent before the comptroller the vendor community, to provide information to vendors, and to obtain vendor input on state procurement practices.

(b) The committee is composed of employees from the comptroller and vendors who have done business with the state who are invited by the comptroller to serve on the committee. The comptroller shall invite a cross-section of the vendor community to serve on the committee, inviting both large and small businesses and vendors who provide a variety of different goods and services to the state. Chapter [2110](#) does not apply to the size or composition of the committee. The comptroller shall set staggered terms for the members of the committee.

(c) The committee may establish its own rules of operation but shall post notice of and hold its meetings in accordance with Chapter [551](#).

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 19, eff. September 1, 2019.

Sec. 2155.082. PROVIDING CERTAIN PURCHASING SERVICES ON FEE-FOR-SERVICE BASIS OR THROUGH BENEFIT FUNDING. (a) The comptroller may provide open market purchasing services on a fee-for-service basis for state agency purchases that are delegated to an agency under Section [2155.131](#), [2155.132](#), or [2157.121](#) or that are exempted from the purchasing authority of the comptroller. The comptroller shall set the fees in an amount that recovers the

comptroller's costs in providing the services.

(b) The comptroller shall publish a schedule of fees for services that are subject to this section. The schedule must include the comptroller's fees for:

- (1) reviewing bid and contract documents for clarity, completeness, and compliance with laws and rules;
- (2) developing and transmitting invitations to bid;
- (3) receiving and tabulating bids;
- (4) evaluating and determining which bidder offers the best value to the state;
- (5) creating and transmitting purchase orders; and
- (6) participating in agencies' request for proposal processes.

(c) If the state agency on behalf of which the procurement is to be made agrees, the comptroller may engage a consultant to assist with a particular procurement on behalf of a state agency and pay the consultant from the cost savings realized by the state agency.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 32.01, eff. September 28, 2011.

Sec. 2155.083. STATE BUSINESS DAILY; NOTICE REGARDING PROCUREMENTS EXCEEDING \$25,000. (a) Except as provided by Subsection (n), this section applies to each state agency making a procurement that will exceed \$25,000 in value, without regard to the source of funds the agency will use for the procurement, including a procurement that:

- (1) is otherwise exempt from the comptroller's purchasing authority or the application of this subtitle;
- (2) is made under delegated purchasing authority;
- (3) is related to a construction project; or
- (4) is a procurement of professional or consulting services.

(b) Repealed by Acts 2001, 77th Leg., ch. 1422, Sec. 7.07, eff. September 1, 2001.

(c) The comptroller each business day shall produce and post a business daily in an electronic format. The comptroller shall post in the business daily information as prescribed by this section about each state agency procurement that will exceed \$25,000 in value. The comptroller shall also post in the business daily other information relating to the business activity of the state that the comptroller considers to be of interest to the public.

(d) The comptroller shall make the business daily available on the Internet. Each state agency shall cooperate with the comptroller in making the electronic business daily available.

(e) To accommodate businesses that do not have the technical means to access the business daily, governmental and nongovernmental entities such as public libraries, chambers of commerce, trade associations, small business development centers, economic development departments of local governments, and state agencies may provide public access to the business daily. A governmental entity may recover the direct cost of providing the public access only by charging a fee for downloading procurement notices and bid or proposal solicitation packages posted in the business daily. A nongovernmental entity may use information posted in the business daily in providing a service that is more than only the downloading of information from the business daily, including a service by which appropriate bidders or offerors are matched with information that is relevant to those bidders or offerors, and may charge a lawful fee that the entity considers appropriate for the service.

(f) The comptroller and other state agencies may not charge a fee designed to recover the cost of preparing and gathering the information that is published in the business daily. These costs are considered part of a procuring agency's responsibility to publicly inform potential bidders or offerors of its procurement opportunities.

(g) A state agency shall post in the business daily either the entire bid or proposal solicitation package or a notice that includes all information necessary to make a successful bid, proposal, or other applicable expression of interest for the

procurement contract, including at a minimum the following information for each procurement that the state agency will make that is estimated to exceed \$25,000 in value:

(1) a brief description of the goods or services to be procured and any applicable state product or service codes for the goods and services;

(2) the last date on which bids, proposals, or other applicable expressions of interest will be accepted;

(3) the estimated quantity of goods or services to be procured;

(4) if applicable, the previous price paid by the state agency for the same or similar goods or services;

(5) the estimated date on which the goods or services to be procured will be needed; and

(6) the name, business mailing address, and business telephone number of the state agency employee a person may contact to inquire about all necessary information related to making a bid or proposal or other applicable expression of interest for the procurement contract.

(h) The state agency shall continue to either:

(1) post notice of the procurement in accordance with Subsection (g) until the latest of 21 calendar days after the date the notice is first posted; the date the state agency will no longer accept bids, proposals, or other applicable expressions of interest for the procurement; or the date the state agency decides not to make the procurement; or

(2) post the entire bid or proposal solicitation package in accordance with Subsection (g) until the latest of 14 calendar days after the date the bid or proposal solicitation package is first posted; the date the state agency will no longer accept bids, proposals, or other applicable expressions of interest for the procurement; or the date the state agency decides not to make the procurement.

(i) A state agency may not award the procurement contract and shall continue to accept bids or proposals or other applicable expressions of interest for the procurement contract for at least 21 calendar days after the date the state agency first posted notice

of the procurement in accordance with Subsection (g) or 14 calendar days after the date the state agency first posted the entire bid or proposal solicitation package in accordance with Subsection (g), as applicable. The minimum time for posting required by this subsection and Subsection (h) does not apply in an emergency requiring the state agency to make the procurement more quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state.

(j) A contract or procurement award made by a state agency that violates the applicable minimum time for posting required by Subsections (h) and (i) is void.

(k) Each state agency that will award a procurement contract estimated to exceed \$25,000 in value shall send to the comptroller:

(1) the information the comptroller requires for posting in the state business daily under this section; and

(2) a notice when the procurement contract has been awarded or when the state agency has decided to not make the procurement.

(1) Repealed by Acts 2003, 78th Leg., ch. 785, Sec. 75(2).

(m) The requirements of this section are in addition to the requirements of other law relating to the solicitation of bids, proposals, or expressions of interest for a procurement by a state agency. This section does not affect whether a state agency is required to award a procurement contract through competitive bidding, competitive sealed proposals, or another method.

(n) This section does not apply to a state agency to which Section [51.9335](#) or [73.115](#), Education Code, applies.

Added by Acts 1997, 75th Leg., ch. 508, Sec. 1, eff. June 1, 1998. Renumbered from Sec. 2155.074 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(57), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 2.01, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 7.02, 7.07, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 785, Sec. 75(2), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 20, eff. September 1, 2019.

Sec. 2155.084. PURCHASES FROM FEDERAL GOVERNMENT. (a) The comptroller or the governing body of an institution of higher education may negotiate purchases of goods of any kind needed by a state agency or the institution of higher education with the appropriate agency of the federal government. The governing body of an institution of higher education may act under this section either directly or through the comptroller or another state agency.

(b) The price of goods that are purchased from the federal government may not exceed the fair market value of the goods.

(c) In negotiating purchases of goods from the federal government under this section or under Subchapter G, Chapter 2175, the comptroller or the governing body of the institution of higher education may waive the requirement of a bidder's bond and performance bond that otherwise would be required.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.16, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 816, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 9.020(h), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 21, eff. September 1, 2019.

Sec. 2155.085. REVERSE AUCTION PROCEDURE. (a) The comptroller shall:

(1) purchase goods or services using the reverse auction procedure whenever:

(A) the procedure provides the best value to the state; or

(B) all purchasing methods provide equal value to the state;

(2) offer historically underutilized businesses assistance and training relating to the reverse auction procedure; and

(3) advise historically underutilized businesses on contracts available using the reverse auction procedure.

(b) The comptroller shall set a goal of purchasing at least 20 percent of the dollar value of goods or services purchased by the

comptroller using the reverse auction procedure.

Added by Acts 2005, 79th Leg., Ch. 1013 (H.B. 908), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 22, eff. September 1, 2019.

Sec. 2155.088. MATERIAL CHANGES TO CONTRACTS.

(a) Notwithstanding any other law, the performance of a contract for goods or services awarded under this chapter must substantially comply with the terms contained in the written solicitation for the contract and the terms considered in awarding the contract, including terms regarding cost of materials or labor, duration, price, schedule, and scope.

(b) After a contract for goods or services is awarded under this chapter, the governing body of a state agency, if applicable, must hold a meeting to consider a material change to the contract and why that change is necessary. For purposes of this section, a material change includes:

(1) extending the length of or postponing the completion of a contract for six months or more; or

(2) increasing the total consideration to be paid under a contract by at least 10 percent, including by substituting certain goods, materials, products, or services.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1404 (H.B. 3648), Sec. 1, eff. June 14, 2013.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. 799 and S.B. 1896, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2155.089. REPORTING VENDOR PERFORMANCE. (a) After a contract is completed or otherwise terminated, each state agency shall review the vendor's performance under the contract. If the value of the contract exceeds \$5 million, the state agency shall review the vendor's performance:

(1) at least once each year during the term of the

contract; and

(2) at each key milestone identified for the contract.

(b) The state agency shall report to the comptroller, using the tracking system established by Section 2262.055, on the results of each review conducted under Subsection (a) regarding a vendor's performance under a contract.

(b-1) A state agency may not extend a vendor's contract until after the agency reports the results of each review of the vendor conducted under Subsection (a)(1) or (2), as applicable, in the manner prescribed by Subsection (b).

(c) This section does not apply to:

(1) an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on September 1, 2015;

(2) a contract of the Employees Retirement System of Texas except for a contract with a nongovernmental entity for claims administration of a group health benefit plan under Subtitle H, Title 8, Insurance Code; or

(3) a contract entered into by:

(A) the comptroller under Section 2155.061; or

(B) the Department of Information Resources under Section 2157.068.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 13, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 15, eff. September 1, 2019.

Sec. 2155.090. VENDOR AND EMPLOYEE INTERACTION AND COMMUNICATION POLICY. (a) The comptroller shall update a contract management guide to include policies on the interactions and communication between employees of the state agency and a vendor that contracts with the state agency or seeks to conduct business with the state agency.

(b) This subtitle does not prohibit the exchange of information between a state agency and a vendor related to future solicitations or as necessary to monitor an existing contract.

Added by Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 6,

eff. September 1, 2017.

Sec. 2155.091. CHIEF PROCUREMENT OFFICER: POWERS AND DUTIES. (a) The comptroller shall employ a chief procurement officer to serve as the chief procurement officer for this state.

(b) The chief procurement officer has authority over state agency procurement, including the authority to:

(1) analyze state purchasing data to leverage state purchasing power;

(2) provide functional support to state agencies;

(3) provide training on state purchasing and contract management;

(4) review major contract solicitations for information technology projects monitored by the quality assurance team under Section [2054.158](#);

(5) review solicitations for major contracts reviewed by the Contract Advisory Team under Section [2262.101](#);

(6) delegate to a state agency authority to contract for the purchase of a good or service valued in an amount specified by comptroller rule; and

(7) provide leadership on procurement issues.

(c) A state agency shall comply with any request for information from the chief procurement officer necessary to conduct the analysis authorized by Subsection (b)(1).

(d) The chief procurement officer shall coordinate with the Department of Information Resources and the quality assurance team to conduct a contract solicitation review required by Subsection (a)(4) and make appropriate recommendations to the comptroller and legislature based on the review. This section grants the chief procurement officer authority only to review a contract solicitation. The Department of Information Resources or the appropriate state agency retains the authority to award a statewide information resources contract as authorized by law.

(e) The chief procurement officer shall coordinate with the Contract Advisory Team to conduct the review required by Section [2262.101](#). A state agency shall comply with any request for information by the chief procurement officer that is necessary to

conduct the review.

Added by Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. [533](#)), Sec. 6, eff. September 1, 2017.

SUBCHAPTER C. DELEGATIONS OF AND EXCLUSIONS FROM COMPTROLLER'S
PURCHASING AUTHORITY AND CERTAIN EXEMPTIONS FROM COMPETITIVE
BIDDING

Sec. 2155.131. DELEGATION OF AUTHORITY TO STATE AGENCIES. The comptroller may delegate purchasing functions to a state agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 24, eff. September 1, 2019.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [799](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2155.132. PURCHASES LESS THAN SPECIFIED MONETARY AMOUNT. (a) A state agency is delegated the authority to purchase goods and services if the purchase does not exceed \$15,000. If the comptroller determines that a state agency has not followed the comptroller's rules or the laws related to the delegated purchases, the comptroller shall report its determination to the members of the state agency's governing body and to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board.

(b) The comptroller by rule may delegate to a state agency the authority to purchase goods and services if the purchase exceeds \$15,000. In delegating purchasing authority under this subsection or Section [2155.131](#), the comptroller shall consider factors relevant to a state agency's ability to perform purchasing functions, including:

(1) the capabilities of the agency's purchasing staff and the existence of automated purchasing tools at the agency;

(2) the certification levels held by the agency's purchasing personnel;

(3) the results of the comptroller's procurement review audits of an agency's purchasing practices; and

(4) whether the agency has adopted and published protest procedures consistent with those of the comptroller as part of its purchasing rules.

(c) The comptroller shall monitor the purchasing practices of state agencies that are making delegated purchases under Subsection (b) or Section [2155.131](#) to ensure that the certification levels of the agency's purchasing personnel and the quality of the agency's purchasing practices continue to warrant the amount of delegated authority provided by the comptroller to the agency. The comptroller may revoke for cause all or part of the purchasing authority that the comptroller delegated to a state agency. The comptroller shall adopt rules to administer this subsection.

(d) The comptroller by rule:

(1) shall prescribe procedures for a delegated purchase; and

(2) shall prescribe procedures by which agencies may use the comptroller's services for delegated purchases, in accordance with Section [2155.082](#).

(e) Competitive bidding, whether formal or informal, is required for a purchase by a state agency if the purchase:

(1) exceeds \$5,000; and

(2) is made under a written contract.

(f) Goods purchased under this section may not include:

(1) an item for which a contract has been awarded under the contract purchase procedure, unless the quantity purchased is less than the minimum quantity specified in the contract;

(2) an item required by statute to be purchased from a particular source; or

(3) a scheduled item that has been designated for purchase by the comptroller.

(g) A large purchase may not be divided into small lot purchases to meet the dollar limits prescribed by this section. The comptroller may not require that unrelated purchases

be combined into one purchase order to exceed the dollar limits prescribed by this section.

(h) A state agency making a purchase under this section for which competitive bidding is required must:

(1) attempt to obtain at least three competitive bids from sources listed on the master bidders list that normally offer for sale the goods being purchased; and

(2) comply with Subchapter E.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1499, Sec. 1.17, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1354 (H.B. 119), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 25, eff. September 1, 2019.

Sec. 2155.136. PURCHASE OF CERTAIN MEDICAL EQUIPMENT BY MEDICAL OR DENTAL UNIT. (a) A medical or dental unit listed under Section 61.003, Education Code, may purchase through the use of competitive sealed proposals:

(1) prototypes of medical equipment not yet available on the market;

(2) medical equipment so new to the market that its benefits are not fully known; and

(3) major medical equipment that is so technically complex that development of specifications for competitive bidding is not feasible.

(b) To make a purchase under this section, the medical or dental unit must:

(1) follow the competitive sealed proposals procedures under Subchapter C, Chapter 2157, and comptroller rules on the use of competitive sealed proposals; and

(2) submit to the comptroller a written finding that competitive sealed bidding or informal competitive bidding is not practical or is disadvantageous to the state for the proposed

acquisition.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 26, eff. September 1, 2019.

Sec. 2155.137. EMERGENCY PURCHASES. (a) The comptroller shall provide for emergency purchases by a state agency and may set a monetary limit on the amount of an emergency purchase.

(b) The provisions of Section [2161.181](#) relating to historically underutilized businesses apply to an emergency purchase made under this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 27, eff. September 1, 2019.

Sec. 2155.138. EXEMPTION OF GOODS OR SERVICES OF BLIND OR VISUALLY IMPAIRED PERSONS. (a) The competitive bidding provisions of this chapter do not apply to a state purchase of goods or services that:

(1) are made or provided by blind or visually impaired persons;

(2) are offered for sale to a state agency through efforts made under Chapter [122](#), Human Resources Code;

(3) meet state specifications for quantity, quality, delivery, and life cycle costs; and

(4) cost not more than the fair market price of similar items.

(b) The Texas Workforce Commission shall test the goods and services to the extent necessary to ensure quality. The Texas Workforce Commission may enter into a contract with a private or public entity to assist with testing.

(c) The comptroller shall make awards under this section based on proposed goods and services meeting formal state specifications developed by the comptroller or meeting commercial specifications approved by the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 9, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 28, eff. September 1, 2019.

Sec. 2155.139. EXEMPTION FOR CERTAIN LIBRARIES AND HEALTH FACILITIES. (a) Section 2155.061 does not apply to an acquisition if:

(1) the acquisition is for a:

(A) library operated as a part of a university system or institution of higher education;

(B) library or resource-sharing program operated by the Texas State Library and Archives Commission; or

(C) state-owned hospital or clinic; and

(2) the goods or services acquired are:

(A) serial and journal subscriptions, including electronic databases and information products;

(B) library materials, including books not available under a statewide contract and papers;

(C) library services, including binding services not available under a statewide contract; or

(D) library equipment and supplies.

(b) Section 2155.061 does not apply to a purchase of goods by a state-owned hospital or clinic through a group purchasing program that offers purchasing services at discount prices to two or more hospital or clinic facilities if the chief executive officer of the hospital or clinic or the officer's designee certifies that the purchase of the particular goods through the group purchasing program is the most cost-effective method of purchasing available.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 91, Sec. 2, eff. Sept. 1, 1999.

Sec. 2155.140. PURCHASE FROM GIFT OR GRANT NOT WITHIN COMPTROLLER'S PURCHASING AUTHORITY. The comptroller's authority does not apply to a purchase of goods or services from a gift or grant, including an industrial or federal grant or contract in support of research.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 29, eff. September 1, 2019.

Sec. 2155.141. PURCHASES FOR AUXILIARY ENTERPRISE NOT WITHIN COMPTROLLER'S PURCHASING AUTHORITY. The comptroller's authority does not extend to a purchase of goods and services for an auxiliary enterprise.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.06, eff. June 18, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 29, eff. September 1, 2019.

Sec. 2155.143. PURCHASE OF CARE AND TREATMENT SERVICES BY TEXAS JUVENILE JUSTICE DEPARTMENT. (a) The Texas Juvenile Justice Department may purchase care and treatment services, including educational services, for its wards.

(b) The Texas Juvenile Justice Department shall:

(1) negotiate purchases under this section to achieve fair and reasonable prices at rates that do not exceed any maximum provided by law; and

(2) select service providers according to each provider's qualifications and demonstrated competence.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. [1549](#)), Sec. 112, eff. September 1, 2015.

The following section was amended by the 87th Legislature. Pending

publication of the current statutes, see S.B. [799](#) and S.B. [1896](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2155.144. PROCUREMENTS BY HEALTH AND HUMAN SERVICES AGENCIES. (a) This section applies only to the Health and Human Services Commission and to each health and human services agency.

(b) An agency to which this section applies is delegated the authority to procure its goods and services, except as provided by this section.

(b-1) An agency to which this section applies is not delegated the authority to procure common commodities or services:

(1) including goods and services acquired for direct consumption or use by the agency in the day-to-day support of the agency's administrative operations, such as office supplies and equipment, building maintenance and cleaning services, or temporary employment services; and

(2) not including consulting services, professional services, health care services, information resources technology, goods or services acquired for the benefit or on behalf of clients of programs operated by the agency, procurements specifically authorized or delegated to the agency by statute, or the contracting out of agency purchasing functions or other administrative or program functions.

(b-2) The Health and Human Services Commission is delegated the authority to procure goods and services related to a contract for:

(1) a project to construct or expand a state hospital operated by a health and human services agency or a state supported living center as defined by Section [531.002](#), Health and Safety Code; or

(2) a deferred maintenance project for a health facility described by Subdivision (1).

(c) An agency to which this section applies shall acquire goods or services by any procurement method approved by the Health and Human Services Commission that provides the best value to the agency. The agency shall document that it considered all relevant factors under Subsection (d) in making the acquisition.

(d) Subject to Subsection (e), the agency may consider all relevant factors in determining the best value, including:

- (1) any installation costs;
- (2) the delivery terms;
- (3) the quality and reliability of the vendor's goods or services;
- (4) the extent to which the goods or services meet the agency's needs;
- (5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience and responsibility, and the vendor's ability to provide reliable maintenance agreements;
- (6) the impact on the ability of the agency to comply with laws and rules relating to historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities;
- (7) the total long-term cost to the agency of acquiring the vendor's goods or services;
- (8) the cost of any employee training associated with the acquisition;
- (9) the effect of an acquisition on agency productivity;
- (10) the acquisition price; and
- (11) any other factor relevant to determining the best value for the agency in the context of a particular acquisition.

(e) Repealed by Acts 2003, 78th Leg., ch. 785, Sec. 75(2).

(f) The state auditor may audit the agency's acquisitions of goods and services before or after a warrant is issued to pay for an acquisition.

(g) The agency may adopt rules and procedures for the acquisition of goods and services under this section.

(h) The Health and Human Services Commission shall adopt rules and procedures for the acquisition of goods and services under this section that apply to all health and human services agencies, including rules adopted with the commission's assistance that allow an agency to make purchases through a group purchasing

program except when a better value is available through another procurement method. The rules of the health and human services agencies must be consistent with the rules of the Health and Human Services Commission.

(i) Subject to Section [531.0055\(c\)](#), the Health and Human Services Commission shall develop a single statewide risk analysis procedure. Each health and human services agency shall comply with the procedure. The procedure must provide for:

(1) assessing the risk of fraud, abuse, or waste in health and human services agencies contractor selection processes, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which health and human services agencies contract;

(2) identifying contracts that require enhanced contract monitoring; and

(3) coordinating contract monitoring efforts among health and human services agencies.

(j) Subject to Section [531.0055\(c\)](#), the Health and Human Services Commission shall publish a contract management handbook that establishes consistent contracting policies and practices to be followed by health and human services agencies. The handbook may include standard contract provisions and formats for health and human services agencies to incorporate as applicable in their contracts.

(k) Subject to Section [531.0055\(c\)](#), the Health and Human Services Commission, in cooperation with the comptroller, shall establish a central contract management database that identifies each contract made with a health and human services agency. The comptroller may use the database to monitor health and human services agency contracts, and health and human services agencies may use the database in contracting. A state agency shall send to the comptroller in the manner prescribed by the comptroller the information the agency possesses that the comptroller requires for inclusion in the database.

(l) The Health and Human Services Commission shall coordinate the procurement practices of all health and human services agencies and encourage those agencies to use efficient

procurement practices such as the use of a group purchasing program, combining maintenance contracts into one contract, and obtaining prompt payment discounts. In implementing this duty, the Health and Human Services Commission may review the procurement and rate-setting procedures of each health and human services agency to ensure that amounts paid to contractors are consistent and represent the best value for the state. The Health and Human Services Commission may disapprove a procurement and rate-setting procedure of a health and human services agency. A health and human services agency may not use a procurement or rate-setting procedure that has been disapproved by the commission. The Health and Human Services Commission may transfer the procurement functions of a health and human services agency to another appropriate state agency if it determines that transferring those functions would be advantageous to the state. Other state agencies and institutions with experience in acquiring goods and services using the procedures allowed under Subsections (c) and (d) shall on request assist the Health and Human Services Commission to perform its functions under this section.

(m) Subject to Section [531.0055\(c\)](#), the Health and Human Services Commission shall develop and implement a statewide plan to ensure that each entity that contracts with a health and human services agency and any subcontractor of the entity complies with the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(n) To the extent of any conflict, this section prevails over any other state law relating to the procurement of goods and services except a law relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities.

(o) Repealed by Acts 2015, 84th Leg., R.S., Ch. 837 , Sec. 2.08(b)(3), eff. September 1, 2015.

(p) In this section, "health and human services agency" has the meaning assigned by Section [531.001](#).

Added by Acts 1997, 75th Leg., ch. 1045, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1460, Sec. 3.11, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 309, Sec. 7.07, eff. June 18, 2003;

Acts 2003, 78th Leg., ch. 785, Sec. 75(2), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.09, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 2.08(b)(3), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 16, eff. September 1, 2019.

Sec. 2155.1441. HEALTH CARE PURCHASING. (a) A state agency shall acquire goods and services used in support of the agency's health care programs by the method that provides the greatest volume discount for the goods or services, including group purchasing programs, state agency purchasing consortiums, or competitive sealed proposals.

(b) A state agency may contract with a medical and dental unit to have the unit perform all or part of the purchasing functions of the agency under this section or to participate in a state agency purchasing consortium or group purchasing program with the medical and dental unit.

(c) If a state agency determines that it should consider factors in addition to volume discounts in acquiring a particular good or service, the agency may acquire the good or service by the most cost-effective method of acquisition available, including group purchasing programs, state agency purchasing consortiums, or competitive sealed proposals.

(d) A state agency shall provide appropriate information to the comptroller concerning acquisitions made by the agency under this section, but the comptroller's authority under this chapter and Chapters 2156, 2157, and 2158 does not extend to the acquisition of goods and services made under this section.

(e) The central administration of The University of Texas System shall develop methods for sharing information concerning acquisitions made under this section, including methods for sharing the information electronically. Electronic sharing may include posting information on acquisitions on the comptroller's state government electronic bulletin board.

(f) A state agency shall collect and maintain information as specified by the central administration of The University of Texas System relating to the agency's acquisitions under this section. The central administration of The University of Texas System is entitled to access to all information collected and maintained under this section.

(g) In this section:

(1) "Goods" means material, supplies, equipment, or other tangible items.

(2) "Group purchasing program" means a program administered by a business entity that offers discount prices on goods and services to participants in the program.

(3) "Health care program" means a program or activity administered or funded by a state agency to provide health care services, research, education, or goods.

(4) "Medical and dental unit" has the meaning assigned by Section [61.003](#), Education Code.

(5) "State agency purchasing consortium" means a group of three or more state agencies acting under a written agreement to receive discount prices from vendors based on volume purchases of goods and services.

(h) This section does not apply to the state Medicaid program.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 17.01(a), eff. Sept. 1, 1997. Renumbered from Sec. 2155.144 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(58), eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 30, eff. September 1, 2019.

Sec. 2155.1442. FOSTER CARE RESIDENTIAL CONTRACT MANAGEMENT. (a) Subject to Subsection (e), the state auditor shall conduct a management review of the residential contract management employees of the Health and Human Services Commission and the Department of Family and Protective Services and make recommendations regarding the organization of, and skills and educational requirements for, those employees. The state auditor

shall also make recommendations regarding the implementation of financial accountability provisions and processes to ensure effective and efficient expenditure of state and other contract funds.

(b) The Health and Human Services Commission shall contract with the state auditor to perform on-site financial audits of selected residential contractors as necessary. The state auditor, in consultation with the commission, shall select the contractors to audit based on the contract's risk assessment rating, allegations of fraud or misuse of state or other contract funds, or other appropriate audit selection criteria. The residential contractors selected to be audited must be included in the audit plan and approved by the legislative audit committee under Section [321.013](#).

(c) The Department of Family and Protective Services shall require that all files related to contracts for residential care of foster children:

(1) be complete and accurately reflect the contractor's actual updated contract performance; and

(2) be maintained in accordance with the department's record retention procedures and made available to the state auditor when requested.

(d) Subject to the availability of funds appropriated for the purpose, the Department of Family and Protective Services may develop an Internet-based system to enable residential contractors to review their reimbursement accounts or other pertinent financial data and reconcile their accounts.

(e) Work performed under Subsections (a) and (b) by the state auditor is subject to approval by the legislative audit committee for inclusion in the audit plan under Section [321.013](#)(c). Added by Acts 2005, 79th Leg., Ch. 268 (S.B. [6](#)), Sec. 1.72(a), eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. [758](#)), Sec. 22, eff. September 1, 2007.

Sec. 2155.145. CERTAIN PURCHASES BY TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY. The Texas Commission on Environmental Quality is delegated all purchasing functions relating to the administration of Subchapters F and I, Chapter 361, Health and Safety Code, subject to the rules adopted by the comptroller under Section 2155.132(c).

Added by Acts 1997, 75th Leg., ch. 793, Sec. 16, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 31, eff. September 1, 2019.

Sec. 2155.146. CERTAIN PURCHASES BY EMPLOYEES RETIREMENT SYSTEM OF TEXAS. (a) The Employees Retirement System of Texas is delegated all purchasing functions relating to the purchase of goods or services from funds other than general revenue funds for a purpose the retirement system determines relates to the fiduciary duties of the retirement system.

(b) The Employees Retirement System of Texas shall acquire goods or services by any procurement method approved by the board of trustees of the retirement system that provides the best value to the retirement system. The retirement system shall consider the best value standards enumerated in Section 2155.074, as added by Chapter 1206, Acts of the 75th Legislature, Regular Session, 1997.

(c) The comptroller shall procure goods or services for the Employees Retirement System of Texas at the request of the retirement system, and the retirement system may use the services of the comptroller in procuring goods or services.

Added by Acts 1999, 76th Leg., ch. 1541, Sec. 55, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 32, eff. September 1, 2019.

Sec. 2155.147. CERTAIN PURCHASES BY GENERAL LAND OFFICE. (a) The General Land Office is delegated all purchasing functions relating to purchases under Section 33.603, Natural Resources Code, including coastal erosion studies, demonstration studies, and response projects.

(b) The General Land Office shall acquire goods and services by any procurement method that provides the best value to the land office. The land office shall consider the best value standards provided by Section [2155.074](#).

(c) The comptroller shall procure goods and services for the General Land Office at the request of the land office, and the land office may use the services of the comptroller in procuring goods and services.

Added by Acts 2001, 77th Leg., ch. 1076, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 33, eff. September 1, 2019.

Sec. 2155.148. CERTAIN PURCHASES FOR TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM. (a) The Texas Emergency Services Retirement System is delegated all purchasing functions relating to the purchase of goods or services from funds other than general revenue funds for a purpose the state board of trustees of the Texas Emergency Services Retirement System determines relates to the fiduciary duties of the retirement system.

(b) The Texas Emergency Services Retirement System shall acquire goods or services by any procurement method approved by the state board of trustees of the Texas Emergency Services Retirement System that provides the best value to the retirement system. The retirement system shall consider the best value standards provided by Section [2155.074](#).

(c) The comptroller shall procure goods or services for the Texas Emergency Services Retirement System at the request of the retirement system, and the retirement system may use the services of the comptroller in procuring goods or services.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.08, eff. June 18, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. [220](#)), Sec. 3.04, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 34, eff. September 1, 2019.

Sec. 2155.149. CERTAIN PURCHASES BY VETERANS' LAND BOARD.

(a) The Veterans' Land Board is delegated all purchasing functions relating to veterans homes and veterans cemeteries.

(b) The Veterans' Land Board shall acquire goods and services under Subsection (a) by any procurement method that provides the best value to the Veterans' Land Board. The Veterans' Land Board shall consider the best value standards listed in Section 2155.074.

(c) At the request of the Veterans' Land Board, the comptroller shall procure goods and services described by Subsection (a) for the Veterans' Land Board. The Veterans' Land Board may use the services of the comptroller in procuring goods and services described by Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 17 (S.B. 581), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 35, eff. September 1, 2019.

Sec. 2155.150. CERTAIN PURCHASES BY RAILROAD COMMISSION OF TEXAS. (a) The Railroad Commission of Texas is delegated all purchasing functions relating to purchases under:

- (1) Chapter 89, Natural Resources Code;
- (2) Sections 81.067 and 81.068, Natural Resources Code; and
- (3) Chapters 131 and 134, Natural Resources Code.

(b) The Railroad Commission of Texas shall acquire goods and services, under Subsection (a), by any procurement method that provides the best value to the railroad commission. The railroad commission shall consider the best value standards listed in Section 2155.074.

(c) The comptroller shall procure goods and services, under Subsection (a), for the Railroad Commission of Texas at the request of the railroad commission, and the railroad commission may use the services of the comptroller in procuring goods and services.

Added by Acts 2005, 79th Leg., Ch. 514 (H.B. 773), Sec. 1, eff.

September 1, 2005.

Renumbered from Government Code, Section [2155.149](#) by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(42), eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 9.019, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 28 (S.B. [1587](#)), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 36, eff. September 1, 2019.

SUBCHAPTER D. EXTENSION OF COMPTROLLER PURCHASING SERVICES TO OTHER ENTITIES

Sec. 2155.202. MENTAL HEALTH AND MENTAL RETARDATION COMMUNITY CENTERS; ASSISTANCE ORGANIZATIONS; CHILD-CARE PROVIDERS. The following entities may purchase goods and services through the comptroller:

(1) a community center for mental health and mental retardation services that receives state grants-in-aid under Subchapter [B](#), Chapter [534](#), Health and Safety Code;

(2) an assistance organization as defined by Section [2175.001](#) that receives state funds; and

(3) a child-care provider that meets Texas Rising Star Program certification criteria.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 382 (S.B. [400](#)), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 241 (H.B. [376](#)), Sec. 2, eff. September 1, 2013.

Sec. 2155.203. PURCHASES BY LEGISLATURE AND LEGISLATIVE AGENCIES. A house of the legislature, or an agency, council, or committee of the legislature, including the Legislative Budget Board, the Texas Legislative Council, the state auditor's office,

and the Legislative Reference Library, may use the comptroller's purchasing services for purchasing goods and services, including items covered by Section [21](#), Article XVI, Texas Constitution.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 38, eff. September 1, 2019.

Sec. 2155.204. LOCAL GOVERNMENT PURCHASING PROGRAM. The comptroller's provision of purchasing services for local governments is governed by Subchapter [D](#), Chapter [271](#), Local Government Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 38, eff. September 1, 2019.

Sec. 2155.205. INTERSTATE PURCHASING. (a) Subject to Section [2156.181](#) or other law, the comptroller may enter into agreements to authorize state agencies and political subdivisions of other states to purchase goods or services through comptroller contracts.

(b) The comptroller may charge a reasonable administrative fee to state agencies and political subdivisions of other states that purchase a good or service under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. [533](#)), Sec. 7, eff. September 1, 2017.

SUBCHAPTER E. MASTER BIDDERS LIST

Sec. 2155.261. APPLICABILITY. This subchapter:

(1) applies to a purchase or other acquisition under this chapter or Chapters [2156](#), [2157](#), and [2158](#) for which competitive bidding or competitive sealed proposals are required;

(2) applies to a state agency that makes a purchase or other acquisition under this chapter or Chapters [2156](#), [2157](#), and [2158](#), including the comptroller and an agency that makes an

acquisition under Section [2155.131](#); and

(3) does not apply to a purchase or other acquisition made by the comptroller under Subchapter [A](#), Chapter [2156](#).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 39, eff. September 1, 2019.

Sec. 2155.262. UNIFORM REGISTRATION FORM. (a) The comptroller shall develop a uniform registration form for applying to do business with the comptroller or with another state agency.

(b) The comptroller and each state agency shall make the form available to an applicant.

(c) The form must include an application for:

(1) certification as a historically underutilized business;

(2) a payee identification number for use by the comptroller; and

(3) placement on the comptroller's master bidders list.

(d) A state agency shall submit to the comptroller each uniform registration form that it receives.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 426, Sec. 2, eff. June 18, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 39, eff. September 1, 2019.

Sec. 2155.263. CENTRALIZED MASTER BIDDERS LIST. (a) The comptroller shall maintain a centralized master bidders list and register on the list the name and address of each vendor that applies for registration under rules adopted under this subchapter. The comptroller may include other relevant vendor information on the list.

(b) The comptroller shall maintain the centralized master bidders list in a manner that facilitates a state agency's

solicitation of vendors that serve the agency's geographic area.

(c) The centralized master bidders list shall be used for all available procurement processes authorized by this subtitle and shall also be used to the fullest extent possible by state agencies that make purchases exempt from the comptroller's purchasing authority.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 426, Sec. 3, eff. June 18, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 39, eff. September 1, 2019.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [799](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2155.264. AGENCY SOLICITATION OF BIDS OR PROPOSALS FOR ACQUISITION OVER \$15,000. A state agency that proposes to make a purchase or other acquisition that will cost more than \$15,000 shall solicit bids or proposals from each eligible vendor on the master bidders list that serves the agency's geographic region. A state agency may also solicit bids or proposals through the use of on-line electronic transmission.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 494, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. [1705](#)), Sec. 3.02, eff. September 1, 2009.

Sec. 2155.265. ACCESS TO MASTER BIDDERS LIST. (a) The comptroller shall make the master bidders list available to each state agency that makes a purchase or other acquisition to which this subchapter applies.

(b) The comptroller shall make the list available either electronically or in another form, depending on each state agency's

needs.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 39, eff. September 1, 2019.

Sec. 2155.266. REGISTRATION AND RENEWAL FEE. (a) The comptroller may charge a person applying for registration on the master bidders list a registration fee and may charge a registrant a biennial renewal fee in an amount designed to recover the comptroller's costs in:

(1) making and maintaining the master bidders list; and

(2) soliciting bids or proposals under this subchapter.

(b) In addition to the fee provided by Subsection (a), the comptroller shall also collect \$20 from each registrant to be used for the purpose of enforcing compliance with requirements of state purchasing statutes and the prevention of fraud in the historically underutilized businesses program as set forth in Chapter [2161](#).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 426, Sec. 4, eff. June 18, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 855 (S.B. [2381](#)), Sec. 1, eff. June 19, 2009.

Sec. 2155.267. RULES AND PROCEDURES REGARDING MASTER BIDDERS LIST. (a) The comptroller shall adopt procedures for:

(1) making and maintaining the master bidders list; and

(2) removing an inactive vendor from the list.

(b) The comptroller shall establish by rule a vendor classification process under which only a vendor able to make a bid or proposal on a particular purchase or other acquisition may be solicited under this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 39, eff. September 1, 2019.

Sec. 2155.268. USE OF STATE AGENCY BIDDERS LIST. (a) A state agency may not maintain and use its own bidders list. The prohibition of this subsection does not apply to the Texas Department of Transportation.

(b) A state agency may supplement the bidders list with its own list of historically underutilized businesses if it determines that the supplementation will increase the number of historically underutilized businesses that submit bids.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 11, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 426, Sec. 17, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1499, Sec. 1.18, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 118, Sec. 1.05, eff. Sept. 1, 2001.

Sec. 2155.269. WAIVER. The comptroller by rule may establish a process under which the requirement for soliciting bids or proposals from eligible vendors on a bidders list may be waived for an appropriate state agency or an appropriate purchase or other acquisition under circumstances in which the requirement is not warranted.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 39, eff. September 1, 2019.

Sec. 2155.270. AGENCY ASSISTANCE WITH BIDDERS LIST ISSUES. The comptroller may assist a state agency with issues relating to a bidders list.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 39, eff. September 1, 2019.

SUBCHAPTER F. INSPECTION AND CERTIFICATION OF GOODS OR SERVICES;
AUDITS

Sec. 2155.321. DEFINITIONS. In this subchapter:

(1) "Financial information" means information that the comptroller determines is necessary to audit a claim under Chapter 403.

(2) "Purchase information" means information that the comptroller determines is necessary to audit a purchase under this subchapter.

(3) "Service" means the furnishing of skilled or unskilled labor or professional work but does not include the service of a state agency employee.

(4) "State agency" has the meaning assigned by Section 2103.001.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 62, eff. June 19, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 40, eff. September 1, 2019.

Sec. 2155.322. INSPECTION AND CERTIFICATION. (a) A state agency shall:

(1) inspect and evaluate at the time of receipt all goods or services that the agency receives to determine whether the goods or services comply with the contract under which they were purchased; and

(2) certify, if true, that the goods or services comply with contract requirements and that the invoice for them is correct.

(b) If state law requires that a payment for the goods or services be made on a warrant drawn or an electronic funds transfer initiated by the comptroller or a state agency with delegated authority under Section 403.060, promptly after the later of the receipt of the invoice or the receipt of the goods or services, the agency shall send to the comptroller the certification, together

with the financial information and purchase information provided by the invoice and purchase voucher, on a form or in the manner prescribed by the comptroller.

(c) The comptroller by rule may require that purchase information be sent directly to the comptroller in circumstances under which the comptroller considers it necessary.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 63, eff. June 19, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.10, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 41, eff. September 1, 2019.

Sec. 2155.323. AUDIT OF FINANCIAL INFORMATION. (a) On receipt of a certification, financial information, and purchase information from a state agency as required by this subchapter, the comptroller shall audit the financial information under Chapter [403](#).

(b) If the comptroller approves the financial information, the comptroller shall determine whether the purchase information should also be audited under Section [2155.324](#).

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.117(5), eff. September 1, 2007.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.117(5), eff. September 1, 2007.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.11, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.117(5), eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 42, eff. September 1, 2019.

Sec. 2155.324. PURCHASE AUDIT. (a) When the comptroller

considers a purchase audit to be advisable, the comptroller shall audit the purchase information for compliance with applicable purchasing statutes and rules.

(b) The comptroller may determine the auditing method used under this section, including stratified or statistical sampling techniques.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.12, eff. September 1, 2007.

Sec. 2155.325. PURCHASE AUDIT AFTER ISSUANCE OF WARRANT.

(a) The comptroller may audit purchase information after a warrant has been issued if the audit will expedite the payment process.

(b) For audits under this section, the comptroller by rule shall:

(1) determine the types of purchases that will be audited after a warrant is issued; and

(2) specify the purchase information that a state agency must send to the comptroller before a warrant is issued.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 64, eff. June 19, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.13, eff. September 1, 2007.

Sec. 2155.326. AUDIT BY STATE AUDITOR. Transactions, processes, and the performance of functions under this chapter and Chapters [2156](#), [2157](#), and [2158](#) are subject to audit by the state auditor under Chapter [321](#).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.14, eff. September 1, 2007.

Sec. 2155.327. INTERAGENCY PURCHASES AND TRANSACTIONS.

This subchapter does not apply to an interagency purchase or transaction. An interagency purchase or transaction must be accomplished on a special voucher or electronically as prescribed by the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. PAYMENT PROVISIONS

Sec. 2155.381. INVOICE. (a) The contractor or seller of goods or services contracted for by the comptroller shall submit an invoice to the ordering agency at the address shown on the purchase order.

(b) The invoice shall be prepared and submitted as provided by rule of the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.15, eff. September 1, 2007.

Sec. 2155.382. PAYMENT BY WARRANT. (a) After the comptroller approves financial information and purchase information, when advance approval of that information is required by rule of the comptroller, the comptroller shall draw a warrant on the state treasury for:

- (1) the amount due on the invoice; or
- (2) the amount on the invoice that has been allowed.

(b) The comptroller shall complete the procedures for drawing the warrant not later than the eighth day after the date of receiving the necessary information. If a payment is not due until after the eighth day, the comptroller may delay drawing a warrant if the delay will maximize the state's cash flow.

(c) The comptroller may issue the warrant directly to the vendor. The comptroller, when appropriate, may combine into a single warrant payments that the state owes to a vendor under more than one invoice, including payments to the vendor made on behalf of more than one state agency.

(d) The comptroller may allow or require a state agency to

schedule payments that the comptroller will make to a vendor. The comptroller shall prescribe the circumstances under which advance scheduling of payments is allowed or required. The comptroller shall require advance scheduling of payments when it is advantageous to the state.

(e) The comptroller may require vendors to provide payment addresses, vendor identification numbers, and other account information directly to the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 634, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.16, eff. September 1, 2007.

Sec. 2155.383. ADVANCE PAYMENTS TO STATE OR FEDERAL AGENCY. A state agency may make an advance payment to a federal or other state agency for goods purchased from the agency if an advance payment will expedite delivery of the goods.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2155.384. AUTHORITY TO PAY CHARGES. The comptroller, a state agency, or an entity authorized under Chapter [271](#), Local Government Code, or Section 2155.202 to purchase from a contract entered into under the authority of the comptroller may pay a restocking charge, cancellation fee, or other similar charge if the comptroller, state agency, or other entity determines that the charge is justifiable.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 426, Sec. 5, eff. June 18, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 43, eff. September 1, 2019.

Sec. 2155.385. CREDIT CARDS. (a) If authorized by rule adopted by the comptroller under Section [403.023](#), the comptroller

may contract with one or more credit card issuers for state agencies to use credit cards to pay for purchases. The comptroller may not enter into a contract that conflicts with the rules described by this subsection.

(b) This section does not apply to contracts regarding travel services or the use of credit cards to pay for travel services under Chapter [2171](#).

(c) In this section and notwithstanding Section [2151.002](#), "state agency" has the meaning assigned by Section [403.023](#)(e).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 44, eff. September 1, 2019.

Sec. 2155.386. PREPAYMENT FOR LIBRARY MATERIALS BY INSTITUTION OF HIGHER EDUCATION. An institution of higher education may pay for books and other published library materials before receiving them if reasonably necessary for the efficient operation of the institution's libraries.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2155.387. PAYMENT FOR ROAD CONSTRUCTION MATERIALS DELIVERED BY VEHICLE EXCEEDING WEIGHT LIMITS. A state agency that purchases road construction materials may pay for road construction materials delivered in a vehicle that exceeds the maximum gross weight authorized by law for the vehicle an amount computed using the lesser of:

(1) the actual weight of the load; or

(2) the weight determined by subtracting the weight of the vehicle from the sum of the maximum gross weight authorized by law for the vehicle and the tolerance allowance set for the gross weight of that vehicle by Section [621.403](#), Transportation Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.200, eff. Sept. 1, 1997.

SUBCHAPTER H. PURCHASING PREFERENCES

Sec. 2155.441. PREFERENCE FOR PRODUCTS OF PERSONS WITH MENTAL RETARDATION OR PHYSICAL DISABILITIES. (a) The products of workshops, organizations, or corporations whose primary purpose is training and employing individuals having mental retardation or a physical disability shall be given preference if they meet state specifications regarding quantity, quality, delivery, life cycle costs, and price.

(b) The workshops, organizations, or corporations shall test the products to the extent necessary to ensure quality in accordance with Section 2155.069 and may enter into contracts with a private or public entity to assist with testing.

(c) The comptroller is not required to purchase products under this section that do not meet formal state specifications developed by the comptroller or meet commercial specifications approved by the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 12, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 45, eff. September 1, 2019.

Sec. 2155.442. PREFERENCE FOR ENERGY EFFICIENT PRODUCTS. The comptroller shall give preference to energy efficient products in purchases made under this subtitle if:

(1) the products meet state specifications regarding quantity and quality; and

(2) the cost of the product is equal to or less than the cost of other similar products that are not energy efficient.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 46, eff. September 1, 2019.

Sec. 2155.443. PREFERENCE FOR RUBBERIZED ASPHALT PAVING. The comptroller may give preference to rubberized asphalt

paving made from scrap tires by a facility in this state in purchases of rubberized asphalt paving material if the cost as determined by a life-cycle cost benefit analysis does not exceed by more than 15 percent the bid cost of alternative paving materials. Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 47, eff. September 1, 2019.

Sec. 2155.444. PREFERENCE TO TEXAS AND UNITED STATES PRODUCTS AND TEXAS SERVICES. (a) The comptroller and all state agencies making purchases of goods, including agricultural products, shall give preference to those produced or grown in this state or offered by Texas bidders as follows:

(1) goods produced or offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident shall be given a first preference and goods produced in this state or offered by other Texas bidders shall be given second preference, if the cost to the state and quality are equal; and

(2) agricultural products grown in this state shall be given first preference and agricultural products offered by Texas bidders shall be given second preference, if the cost to the state and quality are equal.

(b) If goods, including agricultural products, produced or grown in this state or offered by Texas bidders are not equal in cost and quality to other products, then goods, including agricultural products, produced or grown in other states of the United States shall be given preference over foreign products if the cost to the state and quality are equal.

(c) In this section:

(1) "Agricultural products" includes textiles and other similar products.

(1-a) "Service-disabled veteran" means a person who is a veteran as defined by 38 U.S.C. Section 101(2) and who has a service-connected disability as defined by 38 U.S.C. Section 101(16).

(2) "Texas bidder" means a business:

(A) incorporated in this state;

(B) that has its principal place of business in this state; or

(C) that has an established physical presence in this state.

(d) The comptroller and all state agencies making purchase of vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation native to the region if the cost to the state is not greater and the quality is not inferior.

(e) The comptroller and all state agencies procuring services shall give first preference to services offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident and shall give second preference to services offered by other Texas bidders if:

(1) the services meet state requirements regarding the service to be performed and expected quality; and

(2) the cost of the service does not exceed the cost of other similar services of similar expected quality that are offered by a bidder that is not entitled to a preference under this subsection.

(f) The comptroller and each state agency conducting an advertising campaign that involves the creation or production of a commercial shall give preference to a commercial production company and advertising agency located in this state if:

(1) the services meet state requirements regarding the service to be performed and regarding expected quality; and

(2) the cost of the service does not exceed the cost of other similar services of similar expected quality that are offered by a bidder that is not entitled to a preference under this subsection.

(g) For purposes of Subsection (f), "commercial production company" means a corporation, limited liability company, partnership, or other private entity that includes as one of its purposes the production of one or more television, film, radio, or other media-related commercials.

(h) The Music, Film, Television, and Multimedia Office within the office of the governor has exclusive rulemaking

authority for purposes of:

(1) determining whether an advertising campaign is subject to the requirements of this section;

(2) establishing a bid process for purposes of the services described by Subsection (f); and

(3) establishing criteria to determine whether a commercial production company or advertising agency is located in this state for the purposes of this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 5.12, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1033, Sec. 1, 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 3.11, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1305 (H.B. [2521](#)), Sec. 1, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 48, eff. September 1, 2019.

Sec. 2155.4441. PREFERENCE UNDER SERVICE CONTRACTS. A state agency that contracts for services shall require the contractor, in performing the contract, to purchase products and materials produced in this state when they are available at a price and time comparable to products and materials produced outside this state.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.19, eff. Sept. 1, 1999.

Sec. 2155.445. PREFERENCE FOR RECYCLED, REMANUFACTURED, OR ENVIRONMENTALLY SENSITIVE PRODUCTS. (a) The comptroller and state agencies shall give preference to recycled, remanufactured, or environmentally sensitive products, as those terms are defined by rule of the comptroller, in purchases made under this subtitle if:

(1) the product meets state specifications regarding quantity and quality; and

(2) the average price of the product is not more than

10 percent greater than the price of comparable nonrecycled products.

(b) The comptroller regularly shall review and revise its procurement procedures and specifications for the purchase of goods to:

(1) eliminate procedures and specifications that explicitly discriminate against recycled, remanufactured, or environmentally sensitive products, as those terms are defined by rule of the comptroller; and

(2) encourage the use of recycled, remanufactured, or environmentally sensitive products.

(c) In developing new procedures and specifications, the comptroller shall encourage the use of recycled products and products that may be recycled or reused or that are remanufactured or environmentally sensitive.

(d) In addition to the products covered by the definition adopted by rule under this section, in this section "recycled product" includes recycled steel products. The preference for recycled steel products under this section applies also to products purchased in connection with projects described by Section [2166.003](#).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 426, Sec. 6, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 1033, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1180 (H.B. [3395](#)), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 49, eff. September 1, 2019.

Sec. 2155.446. PURCHASE AND USE OF PAPER CONTAINING RECYCLED FIBERS. (a) Subject to Subsection (c), the comptroller shall contract for paper containing the highest proportion of recycled fibers for all purposes for which paper with recycled fibers may be used and to the extent that the paper is available through normal commercial sources to supply the state's needs.

(b) Subject to Subsection (c), a state agency that purchases

through the comptroller shall place orders for papers containing recycled fibers to the highest extent of its needs and to the extent that the paper is available through the comptroller's purchasing procedures.

(c) This section does not apply if the average price of paper with recycled fibers exceeds by more than 10 percent the price of comparable nonrecycled paper.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1180 (H.B. [3395](#)), Sec. 2, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 50, eff. September 1, 2019.

Sec. 2155.447. PURCHASE OF RECYCLED OIL. The comptroller, all state agencies, and all state agency employees who purchase motor oil and other automotive lubricants for state-owned vehicles shall give preference to motor oils and lubricants that contain at least 25 percent recycled oil if the cost to the state and the quality are comparable to those of new oil and lubricants.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 51, eff. September 1, 2019.

Sec. 2155.448. EXPENDITURES FOR RECYCLED, REMANUFACTURED, OR ENVIRONMENTALLY SENSITIVE COMMODITIES OR SERVICES. (a) Each state fiscal year, the comptroller by rule may identify recycled, remanufactured, or environmentally sensitive commodities or services, as those terms are defined by rule of the comptroller, and designate purchasing goals for the procurement of those commodities and services by state agencies for that fiscal year.

(b) A state agency that intends to purchase a commodity or service that accomplishes the same purpose as a commodity or service identified under Subsection (a) that does not meet the definition of a recycled product or that is not remanufactured or environmentally sensitive, as those terms are defined by rule of

the comptroller, shall include with the procurement file a written justification signed by the executive head of the agency stating the reasons for the determination that the commodity or service identified by the comptroller will not meet the requirements of the agency.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(21), eff. September 1, 2013.

(d) This section does not apply to a university system or an institution of higher education as those terms are defined by Section [61.003](#), Education Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1082, Sec. 11, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 426, Sec. 7, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 57, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1266, Sec. 5.03, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1122 (H.B. [2466](#)), Sec. 1, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. [59](#)), Sec. 99(21), eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 52, eff. September 1, 2019.

Sec. 2155.449. PREFERENCE TO PRODUCTS AND SERVICES FROM ECONOMICALLY DEPRESSED OR BLIGHTED AREA. (a) In this section, "economically depressed or blighted area" means an area that:

(1) is an economically depressed or blighted area as defined by Section [2306.004](#); or

(2) meets the definition of a historically underutilized business zone as defined by 15 U.S.C. Section 632(p).

(b) The comptroller and all state agencies procuring goods or services shall give preference to goods or services produced in an economically depressed or blighted area if:

(1) the goods or services meet state specifications regarding quantity and quality; and

(2) the cost of the good or service does not exceed the cost of other similar products or services that are not produced in

an economically depressed or blighted area.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 14.03, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 53, eff. September 1, 2019.

Sec. 2155.450. PREFERENCE FOR PRODUCTS OF FACILITIES ON FORMERLY CONTAMINATED PROPERTY. The comptroller and state agencies shall give preference to goods produced at a facility located on property for which the owner has received a certificate of completion under Section [361.609](#), Health and Safety Code, if the goods meet state specifications regarding quantity, quality, delivery, life cycle costs, and price.

Added by Acts 2001, 77th Leg., ch. 483, Sec. 4, eff. Sept. 1, 2001.

Renumbered from Government Code Sec. 2155.449 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(84), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 54, eff. September 1, 2019.

Sec. 2155.451. VENDORS THAT MEET OR EXCEED AIR QUALITY STANDARDS. (a) This section applies only to a contract to be performed, wholly or partly, in a nonattainment area or in an affected county, as those terms are defined by Section [386.001](#), Health and Safety Code.

(b) The comptroller and state agencies procuring goods or services may:

(1) give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality; or

(2) require that a vendor demonstrate that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

(c) The preference may be given only if the cost to the state for the goods or services would not exceed 105 percent of the cost

of the goods or services provided by a vendor who does not meet the standards.

Added by Acts 2003, 78th Leg., ch. 1331, Sec. 19, eff. June 20, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 14.01, eff. Jan. 11, 2004; Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 1, eff. Oct. 20, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 55, eff. September 1, 2019.

Sec. 2155.452. PREFERENCE FOR CONTRACTORS PROVIDING FOODS OF HIGHER NUTRITIONAL VALUE. (a) The comptroller and state agencies making purchases of food for consumption in a public cafeteria may give preference to contractors who provide foods of higher nutritional value and who do not provide foods containing trans fatty acids for consumption in the cafeteria.

(b) In complying with this section, the comptroller and state agencies shall review the Department of Agriculture's nutrition standards.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 3.12, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 56, eff. September 1, 2019.

Sec. 2155.453. CERTAIN CONTRACTS FOR HOMELAND SECURITY OR LAW ENFORCEMENT TECHNOLOGY. A state governmental entity that issues a request for proposals for technological products or services for homeland security or law enforcement purposes must allow a business entity to substitute the qualifications of its executive officers or managers for the qualifications required of the business entity in the request for proposals.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. [11](#)), Sec. 18.04, eff. September 1, 2007.

Renumbered from Government Code, Section [2155.452](#) by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 27.001(45), eff. September 1, 2009.

SUBCHAPTER I. MULTIPLE AWARD CONTRACT SCHEDULE

Sec. 2155.501. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of Information Resources.

(2) "Local government" has the meaning assigned by Section [271.101](#), Local Government Code.

(3) "Multiple award contract" means an award of a contract for an indefinite amount of one or more similar goods or services from a vendor.

(4) "Schedule" means a list of multiple award contracts from which agencies may purchase goods and services.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Sec. 2155.502. DEVELOPMENT OF MULTIPLE AWARD CONTRACT SCHEDULE. (a) The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by:

(1) the federal government, including the federal General Services Administration; or

(2) any other governmental entity in any state.

(b) In developing a schedule under Subsection (a) or (e), the comptroller or department, as appropriate, shall modify any contractual terms, with the agreement of the parties to the contract, as necessary to comply with any federal or state requirements, including rules adopted under this subchapter.

(c) The comptroller may not list a multiple award contract on a schedule developed under Subsection (a) if the goods or services provided by that contract:

(1) are available from only one vendor;

(2) are telecommunications services, facilities, or equipment;

(3) are commodity items as defined by Section [2157.068](#)(a); or

(4) are engineering services as described by Section

[1001.003](#), Occupations Code, or architectural services as described by Section [1051.001](#), Occupations Code.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 326 , Sec. 26, eff. September 1, 2015.

(e) The department may develop a schedule of multiple award contracts for commodity items as defined by Section [2157.068](#)(a) using the criteria established under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. [2918](#)), Sec. 8, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. [628](#)), Sec. 2.06, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. [20](#)), Sec. 26, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 57, eff. September 1, 2019.

Sec. 2155.503. RULES. (a) The comptroller and the department shall adopt rules to implement this subchapter. The rules must:

(1) establish standard terms for contracts listed on a schedule; and

(2) maintain consistency with existing purchasing standards.

(b) The comptroller and the department shall consult with the attorney general in developing rules under this section.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.17, eff. September 1, 2007.

Sec. 2155.504. USE OF SCHEDULE BY GOVERNMENTAL ENTITIES.

(a) Except as provided by this subsection, a state agency or local government may purchase goods or services directly from a vendor

under a contract listed on a schedule developed under this subchapter. A state agency or local government contracting for the purchase of an automated information system under a contract listed on a schedule developed under this subchapter shall comply with Section [2157.068](#)(e-1). A purchase authorized by this section satisfies any requirement of state law relating to competitive bids or proposals.

(b) The price listed for a good or service under a multiple award contract is a maximum price. An agency or local government may negotiate a lower price for goods or services under a contract listed on a schedule developed under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 716 (S.B. [262](#)), Sec. 2, eff. September 1, 2017.

Sec. 2155.505. HISTORICALLY UNDERUTILIZED AND SMALL BUSINESSES. (a) In this section:

(1) "Historically underutilized business" has the meaning assigned by Section [2161.001](#).

(2) "Small business" means a small business concern as defined by regulations of the United States Small Business Administration in 13 C.F.R. Section 121.201 or a veterans service agency.

(3) "Veterans service agency" means a community-based organization that:

(A) is exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described in Section 501(c)(3) of that code;

(B) has as its principal purpose to provide housing, substance abuse treatment, case management services, and employment training to low-income veterans, disabled veterans, and homeless veterans and their families; and

(C) employs veterans to provide at least 75 percent of the hours of direct labor by individuals required to produce goods or provide services required under a contract entered

into under this section.

(b) The comptroller shall strongly encourage each vendor with a contract listed on a schedule developed under this subchapter and who is not a historically underutilized business or small business to use historically underutilized or small businesses to sell or provide a service under the contract. If a vendor does not make a good faith effort to use historically underutilized and small businesses under the contract, the comptroller may exclude the vendor from being listed on a schedule developed under this subchapter.

(c) A historically underutilized business or small business may sell or provide a service under another vendor's contract listed on a schedule developed under this subchapter if:

(1) the contract is on a schedule developed under Section [2155.502](#);

(2) the vendor for the contract authorizes in writing the historically underutilized business or small business to sell or provide a service under that contract; and

(3) the historically underutilized business or small business provides that written authorization to the comptroller.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 604 (S.B. [327](#)), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 58, eff. September 1, 2019.

Sec. 2155.506. REPORTING REQUIREMENTS. (a) A vendor listed on a contract for a schedule developed under this subchapter shall report its sales to the comptroller in the manner prescribed by the comptroller.

(b) The comptroller shall compile the information reported under Subsection (a) and include the information in its report under Section [2101.011](#).

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 59, eff. September 1, 2019.

Sec. 2155.508. INTERNET AVAILABILITY. (a) The comptroller shall develop a database of the multiple award contracts developed under this subchapter and make that information available on an Internet site. The database must have search capabilities that allow a person to easily access the contracts.

(b) The comptroller shall allow vendors to apply through the Internet site to be listed on a schedule developed under this subchapter. The applicant shall provide an electronic mail address to the comptroller as part of the application process.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. [1705](#)), Sec. 3.07(1), eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 59, eff. September 1, 2019.

Sec. 2155.509. NOTICE REGARDING PROCUREMENTS EXCEEDING \$25,000. After a purchase order has been placed, a state agency subject to Section [2155.083](#) shall post, as required under that section, a procurement made under a contract listed on a schedule developed under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [220](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2155.510. REBATES. (a) The comptroller may collect a rebate from a vendor under a contract listed on a schedule developed under this subchapter.

(b) If a purchase resulting in a rebate under this section

is made in whole or in part with federal funds, the comptroller shall ensure that, to the extent the purchase was made with federal funds, the appropriate portion of the rebate is reported to the purchasing agency for reporting and reconciliation purposes with the appropriate federal funding agency.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.09, eff. June 18, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 59, eff. September 1, 2019.